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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of)

Additional Comment Sought)
on Rules Governing)
Telephone Companies' Use)
of Customer Proprietary)
Network Information)

CC Docket No. 90-623

CC Docket No. 92-256

AMERITECH'S REPLY COMMENTS

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AMERITECH'S REPLY COMMENTS

I. INTRODUCTION

The Federal Communications Commission ("FCC") released a Public Notice¹ on March 10, 1994 asking for "Additional Comment" on its rules governing telephone companies' use of Customer Proprietary Network Information ("CPNI"). Ameritech² filed Comments on April 11, 1994, and now respectfully submits these reply comments.

II. SUMMARY

Comments filed with the FCC can be categorized as being filed by: (1) regulatory and consumer organizations, (2) information and enhanced service providers, (3) independent pay phone providers and (4) those involved in telecommunications management such as Centex. Rather than address each

¹ Additional Comment Sought on Rules Governing Telephone Companies Use of Customer Proprietary Network Information, CC Docket Nos. 90-623 and 92-256, FCC 94-93 (released March 10, 1994) ("Public Notice") at 1.

² Ameritech means: Illinois Bell Telephone Company, Indiana Bell Telephone Company, Incorporated, Michigan Bell Telephone Company, The Ohio Bell Telephone Company, and Wisconsin Bell, Inc.

commentor's arguments, Ameritech will respond to the specific categories set forth above.³

III. REPLY COMMENTS TO SPECIFIC CATEGORIES

(1) Regulatory and Consumer Organizations

Generally, comments filed by the regulatory and consumer organizations focus not on the protection of consumer privacy but on the "competitive equity" aspect of CPNI rules, e.g., as competition for telecommunications service grows, CPNI is a source of competitive advantage to incumbent LECs and this could be an insurmountable barrier to entry for potential competitors, that prior written authorization should be required in the residential and small business market, and that LECs should inform their customers that similar services may be available from a vendor other than a LEC.

Since LEC competitors are selling the same services and competing for the same customers, there is no basis for imposing more stringent CPNI requirements on LECs like Ameritech. Competitive access providers ("CAPs") are present in all of Ameritech's major metropolitan areas. As an illustration, Ameritech faces competition from Teleport Communications ("TCI") and Metropolitan Fiber Systems ("MFS") in the provision of local access service.⁴ Furthermore, MCI has announced plans to build a nationwide local exchange network, and MCI in a partnership with Jones Intercable, announced a joint trial of local exchange service in Illinois. And, MCI (in alliance with Hancock Rural Telephone Corporation) filed a

³ Telephone companies also filed comments but since those are relatively homogenous, Ameritech will focus on these specific categories.

⁴ MFS Intelnet of Illinois, Inc., Application for an Amendment to its Certificate of Service Authority to Permit it to Operate as Competitive Local Exchange Carrier of Business Services in Those Portions of MSA-1 Served by Illinois Bell Telephone Company and Central Telephone Company of Illinois, Illinois Commerce Commission, Docket No. 93-0409, November 10, 1993.

petition to resell "Centrex like" intraLATA exchange telecommunications service in the Indianapolis, Indiana LATA. Time Warner has announced its intention to provide local exchange service in Ohio. Time Warner also intends to use its cable-television system in Rochester, New York to provide telephone service to residential and business customer's in competition with the local phone company.⁵ In Grand Rapids, Michigan City Signal Inc. is seeking to provide exchange access, basic local exchange and intraLATA toll service. It's apparent that competition has mushroomed from access to exchange. These changed circumstances argue in favor of relaxing CPNI rules, not tightening them. If imposed on LECs, CPNI rules should be imposed on all providers or, alternatively, should be lifted from the LECs.

A written prior authorization rule for marketing enhanced services to customers with 20 or more lines is unnecessary in a competitive environment. Such a rule retards the growth and development of enhanced services. These commentators fail to realize that the absence of a written prior authorization requirement would not leave customers without protection. Any customer who wants records restricted will be able to do so by a phone call or a simple written request. Today's customer, particularly one with two lines or more, is very sophisticated and knows how to make his/her wishes known. The FCC found, for example, that a "prior written authorization" requirement for customers with less than 21 lines was not reasonable. Such a requirement is unnecessary to protect customer interest and promote competition because: (1) the most valuable information in marketing enhanced services is not CPNI, but is information that comes directly from the customer, relates to the customers' information processing needs, and is equally available to both LECs and enhanced service providers; (2) access to CPNI does not assure a LEC

⁵ New York Times, May 18, 1994, at A1, C2.

of success; and (3) customers know that the enhanced services market is competitive and this knowledge has resulted in the customer contacting competing providers.⁶

For those concerned about privacy, competition not only provides customers with more choices (of providers and products), but has the added benefit of helping to protect privacy interests. When there are multiple providers, for example, customers will choose the provider that offers the best mix of products and privacy protection. Those providers who don't protect privacy sufficiently will lose customers to those providers who do.

(2) Enhanced and Information Service Providers

Predictably, these competitor-commentors use this opportunity for public comment to advance their own pecuniary interest. Not surprisingly, they also misstate applicable FCC CPNI decisions.

The misstatements, for example, include the following: LECs have preferential access to CPNI, that a customer cannot specify which of its proprietary information may be disseminated, that current rules provide LECs with essentially unrestricted access to CPNI while giving providers not affiliated with LECs almost no access to CPNI.

Furthermore, these competitor-commentors erroneously contend that CPNI rules should be modified to treat LEC and unaffiliated enhanced service providers exactly the same; any consent granted should be taken as "blanket" consent and that CPNI rules should apply to the LEC provision of customer premises equipment ("CPE"). They also contend, with no factual basis, that the FCC should take privacy procedures that are applicable to cable operators and apply them to telephone companies.

⁶ Third Computer Inquiry, CC Docket No. 85-229, Phase I, Phase II, Memorandum Opinion and Order on Further Reconsideration and Second Further Reconsideration, Aug. 1, 1989, paras. 20,21.

The FCC implemented its CPNI decisions after a weighing of the evidence relevant at that time. While Ameritech believes the CPNI rules should be modified, e.g., the written prior authorization requirement is overbroad and interpreting the CPNI rules less broadly to permit access to, but not use of, blocked CPNI by service LEC representatives would increase efficiency, Ameritech strictly adheres to the CPNI rules as set forth in various FCC decisions.⁷ Ameritech, and all other LECs, must provide customers with the right to direct that their service records be withheld from Ameritech's enhanced services marketing personnel, and that they be released to other enhanced services vendors not affiliated with Ameritech. A customer can request either partial or temporary blocking of CPNI. This maximizes customer flexibility with respect to CPNI.⁸

Network service customers who are concerned about the proprietary nature of their telecommunications information can request confidentiality for their service records from LECs. Generally, CPNI rules mandate that a LEC limit the access of its enhanced services personnel to a customer's service records if that customer so requests, apply password ID systems to all primary databases that are routinely accessed by a LEC's enhanced services personnel and contain comprehensive restricted CPNI, and prevent LEC enhanced services marketing personnel from accessing customer service records without prior written authorization.

Moreover, to accept the argument of these competitors, that consent to a LEC's access to CPNI records means that all enhanced service providers can access those records is simply not reasonable. To accept this contention would mean that

⁷ If the rules were clarified to allow any LEC service representative to handle a call, but not proactively sell CPE or enhanced services to those customers who had requested blocking of their records, operating efficiencies and customer satisfaction would increase dramatically.

⁸ Third Computer Inquiry, CC Docket No. 85-229, Phase I, Memorandum Opinion and Order on Reconsideration, February 18, 1988, paras. 99, 105, 107, 108, 109, 115.

those service records would be available to everyone without any specific consent, and without the customer having any knowledge of who is viewing service records related to that customer. What customer would knowingly agree to this?

As stated in Ameritech's initial comments, the FCC found that both large and small CPE customers are sufficiently aware of the competitive nature of the CPE market that an initial solicitation would not result in a sale, but would probably result in the customer contacting another CPE vendor to compare features and prices. This is even more true today when a consumer can purchase CPE not only at your local K-Mart, Radio Shack or Sears but also at the corner drug store, e.g., Walgreens. Interestingly, there is no evidence that the consumer's ability to purchase CPE from different vendors was achieved as a result of the CPNI rules.

(3) Independent Pay Phone Providers

The thrust of the comments by the independent pay phone providers (IPPs) is that LECs' pay phone personnel have "privileged access" to CPNI and are therefore able to target their marketing efforts more effectively.

Personnel involved in marketing and planning of Ameritech public pay phones and those involved in IPP operations are in two separate and distinct business units. The Ameritech Information Industry Service business unit (AIIS) services the IPP market. AIIS maintains its own marketing and customer service personnel which are independent of those in the Ameritech Pay Phone business unit.

In the operations area, service orders for new IPP lines are handled by AIIS; installation is performed by another separate Ameritech unit, Ameritech Network Services Organization. There is no communication with the Ameritech public pay phone unit in the installation of an IPP line. Repair calls go to a centralized repair center that dispatches work to a group of technicians who are different from the group used by the Ameritech Pay Phone Services business unit.

Furthermore, Ameritech Pay Phone Services maintains its own marketing, customer service and installation personnel independent of other Ameritech business units. AIIS' marketing and planning information related to the IPP market such as customer size, customer marketshare, geographic market penetration, market demand and revenue forecasts, is information used by AIIS. IPP market planning activities in areas such as new product development, product deployment and vendor selection are also performed by AIIS personnel. Given CPNI rules, IPPs contention that Ameritech benefits from them is unwarranted.

(4) Telecommunications Management

Centex contends that the local exchange bottleneck still exists,⁹ and therefore permitting the LECs to use CPNI for marketing of CPE and basic services is inconsistent with the development of competitive local exchange and local access markets.

The suggestion that the exchange bottleneck still exists ignores reality. It is well known that there has been an "explosion of alternative mediums to transmit voice, data and video services."¹⁰ Again, MCI has acknowledged that it plans to invest in local exchange competition.¹¹ TCI plans to upgrade its present Chicago area cable network so that its network will be fully capable of handling "two-way" telephony.¹² "Bottleneck" is a timeworn phrase. It's a phrase that competitors use when attempting to stir emotion and when there are no facts to substantiate their claims.

⁹ It is indeed curious that Centex would make this claim since it is well known that Centex may be taken over by MFS, an exchange access provider. The combination of Centex and MFS would allow MFS to offer integrated local and long distance service to Centex's customers. Wall Street Journal, March 28, 1994; Multichannel News, March 14, 1994, and Local Competition Report, March 21, 1994.

¹⁰ Bear Stearns, March 5, 1993, "Future Shock Within Telecommunications", at 1.

¹¹ Telephony, June 8, 1993, at 8.

¹² Chicago Tribune, April 13, 1993, at C1 and C4.

CONCLUSION

Today's telecommunications marketplace is intensely competitive. Customers are sophisticated and understand how to employ the competitive nature of the telecommunications marketplace to their financial advantage. Customers know that they have the authority to restrict the use of their CPNI. Today's competitive marketplace argues for less regulation, not more.

Respectfully submitted,

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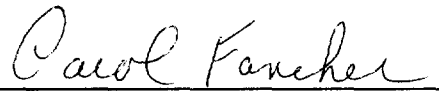
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CERTIFICATE OF SERVICE

I, Carol Fancher, do hereby certify that a copy of the foregoing Ameritech Reply Comments have been served on all parties on the attached service list by depositing same in first class mail, postage prepaid, on this 19th day of May, 1994.



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